

## SUBCOMMITTEE: SUBCOMMITTEE #2

HOUSE BILL NO. 2546

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on \_\_\_\_\_)

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Robinson)

A BILL to amend and reenact §§ 2.2-3705.5, 2.2-3711 and 2.2-4002 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-283.8, relating to the Maternal Mortality Review Team; penalty.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3705.5, 2.2-3711 and 2.2-4002 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-283.8 as follows:**

**§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants; information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1; information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that identifies any practitioner who may be, or who is actually, impaired to the extent that disclosure is prohibited by § 54.1-2517; and information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program (Program) pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

3. Reports, documentary evidence, and other information as specified in §§ 51.5-122 and 51.5-141 and Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 and information and statistical registries required to be kept confidential pursuant to Chapter 1 (§ 63.2-100 et seq.) of Title 63.2.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the

Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. However, nothing in this subdivision shall prevent the disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

5. Information collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3; (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6; ~~or~~ (iv) by a local or regional overdose fatality review team to the extent that such information is made confidential by § 32.1-283.7; or (v) during a review of any death conducted by the Maternal Death Review Team to the extent that such information is made confidential by 32.1-283.8.

8. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

9. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of

Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

10. Any information copied, recorded, or received by the Commissioner of Health in the course of an examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

11. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

12. Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to prevent the disclosure of statistical summaries, abstracts, or other information in aggregate form.

13. The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

14. Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § 8.01-581.17.

15. Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

16. Records of and information held by the Emergency Department Care Coordination Program required to be kept confidential pursuant to § 32.1-372.

**§ 2.2-3711. Closed meetings authorized for certain limited purposes.**

A. Public bodies may hold closed meetings only for the following purposes:

108 1. Discussion, consideration, or interviews of prospective candidates for employment; assignment,  
109 appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public  
110 officers, appointees, or employees of any public body; and evaluation of performance of departments or  
111 schools of public institutions of higher education where such evaluation will necessarily involve  
112 discussion of the performance of specific individuals. Any teacher shall be permitted to be present during  
113 a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the  
114 teacher and some student and the student involved in the matter is present, provided the teacher makes a  
115 written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision,  
116 however, shall be construed to authorize a closed meeting by a local governing body or an elected school  
117 board to discuss compensation matters that affect the membership of such body or board collectively.

118 2. Discussion or consideration of admission or disciplinary matters or any other matters that would  
119 involve the disclosure of information contained in a scholastic record concerning any student of any public  
120 institution of higher education in the Commonwealth or any state school system. However, any such  
121 student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be  
122 permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if  
123 such student, parents, or guardians so request in writing and such request is submitted to the presiding  
124 officer of the appropriate board.

125 3. Discussion or consideration of the acquisition of real property for a public purpose, or of the  
126 disposition of publicly held real property, where discussion in an open meeting would adversely affect the  
127 bargaining position or negotiating strategy of the public body.

128 4. The protection of the privacy of individuals in personal matters not related to public business.

129 5. Discussion concerning a prospective business or industry or the expansion of an existing  
130 business or industry where no previous announcement has been made of the business' or industry's interest  
131 in locating or expanding its facilities in the community.

132 6. Discussion or consideration of the investment of public funds where competition or bargaining  
133 is involved, where, if made public initially, the financial interest of the governmental unit would be  
134 adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the board of visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

21. Those portions of meetings in which individual child death cases are discussed by the State Child Fatality Review team established pursuant to § 32.1-283.1, those portions of meetings in which



individual child death cases are discussed by a regional or local child fatality review team established pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in which individual adult death cases are discussed by the state Adult Fatality Review Team established pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed by a local or regional adult fatality review team established pursuant to § 32.1-283.6, ~~and~~ those portions of meetings in which individual death cases are discussed by overdose fatality review teams established pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

23. Discussion or consideration by the Virginia Commonwealth University Health System Authority or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or disposition by the Authority of real property, equipment, or technology software or hardware and related goods or services, where disclosure would adversely affect the bargaining position or negotiating strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the Authority; grants and contracts for services or work to be performed by the Authority; marketing or operational strategies plans of the Authority where disclosure of such strategies or plans would

adversely affect the competitive position of the Authority; and members of the Authority's medical and teaching staffs and qualifications for appointments thereto.

24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within the Department of Health Professions to the extent such discussions identify any practitioner who may be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 is discussed.

26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to former § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

28. Discussion or consideration of information subject to the exclusion in subdivision 11 of § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where

268 discussion in an open session would adversely affect the bargaining position or negotiating strategy of the  
269 public body.

270 30. Discussion or consideration of grant or loan application information subject to the exclusion  
271 in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation  
272 and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory  
273 Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

274 31. Discussion or consideration by the Commitment Review Committee of information subject to  
275 the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually  
276 violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

277 32. Discussion or consideration of confidential proprietary information and trade secrets developed  
278 and held by a local public body providing certain telecommunication services or cable television services  
279 and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this  
280 subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et  
281 seq.).

282 33. Discussion or consideration by a local authority created in accordance with the Virginia  
283 Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade  
284 secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

285 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting  
286 security matters made confidential pursuant to § 24.2-625.1.

287 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory  
288 Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal  
289 investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

290 36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of  
291 information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and  
292 meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and  
293 consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or  
294 recover scholarship awards.

295 37. Discussion or consideration by the Virginia Port Authority of information subject to the  
296 exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the  
297 Virginia Port Authority.

298 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting  
299 pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26,  
300 by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College  
301 Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory  
302 Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of  
303 § 2.2-3705.7.

304 39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-  
305 3705.6 related to economic development.

306 40. Discussion or consideration by the Board of Education of information relating to the denial,  
307 suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

308 41. Those portions of meetings of the Virginia Military Advisory Council or any commission  
309 created by executive order for the purpose of studying and making recommendations regarding preventing  
310 closure or realignment of federal military and national security installations and facilities located in  
311 Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization  
312 appointed by a local governing body, during which there is discussion of information subject to the  
313 exclusion in subdivision 8 of § 2.2-3705.2.

314 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of  
315 information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable  
316 information of donors.

317 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of  
318 information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information  
319 contained in grant applications.

320 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority  
321 of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or

charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child by a child abuse team established pursuant to § 15.2-1627.5.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

348 51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic  
349 Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and  
350 discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of  
351 § 60.2-114.

352 B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a  
353 closed meeting shall become effective unless the public body, following the meeting, reconvenes in open  
354 meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or  
355 motion that shall have its substance reasonably identified in the open meeting.

356 C. Public officers improperly selected due to the failure of the public body to comply with the  
357 other provisions of this section shall be de facto officers and, as such, their official actions are valid until  
358 they obtain notice of the legal defect in their election.

359 D. Nothing in this section shall be construed to prevent the holding of conferences between two or  
360 more public bodies, or their representatives, but these conferences shall be subject to the same procedures  
361 for holding closed meetings as are applicable to any other public body.

362 E. This section shall not be construed to (i) require the disclosure of any contract between the  
363 Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§  
364 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to  
365 the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered  
366 to issue industrial revenue bonds by general or special law, to identify a business or industry to which  
367 subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record  
368 at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

369 **§ 2.2-4002. Exemptions from chapter generally.**

370 A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.),  
371 the following agencies shall be exempted from the provisions of this chapter, except to the extent that they  
372 are specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031:

373 1. The General Assembly.

374 2. Courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly  
375 granted any of the powers of a court of record.

376 3. The Department of Game and Inland Fisheries in promulgating regulations regarding the  
377 management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2 (§  
378 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§ 29.1-700  
379 et seq.) of Title 29.1.

380 4. The Virginia Housing Development Authority.

381 5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created  
382 under this Code, including those with federal authorities.

383 6. Educational institutions operated by the Commonwealth, provided that, with respect to § 2.2-  
384 4031, such educational institutions shall be exempt from the publication requirements only with respect  
385 to regulations that pertain to (i) their academic affairs, (ii) the selection, tenure, promotion and disciplining  
386 of faculty and employees, (iii) the selection of students, and (iv) rules of conduct and disciplining of  
387 students.

388 7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases,  
389 (ii) classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for  
390 producers' milk, time and method of payment, butterfat testing and differential.

391 8. The Virginia Resources Authority.

392 9. Agencies expressly exempted by any other provision of this Code.

393 10. The Department of General Services in promulgating standards for the inspection of buildings  
394 for asbestos pursuant to § 2.2-1164.

395 11. The State Council of Higher Education for Virginia, in developing, issuing, and revising  
396 guidelines pursuant to § 23.1-207.

397 12. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to  
398 subsection B of § 3.2-6002 and in adopting regulations pursuant to § 3.2-6023.

399 13. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and  
400 Consumer Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601, subsection

401 B of § 3.2-3701, § 3.2-4002, subsections B and D of § 3.2-4801, §§ 3.2-5121 and 3.2-5206, and subsection  
402 A of § 3.2-5406.

403 14. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment  
404 guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification  
405 of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.

406 15. The Commissioner of the Department of Veterans Services in adopting regulations pursuant  
407 to § 2.2-2001.3.

408 16. The State Board of Education, in developing, issuing, and revising guidelines pursuant to §  
409 22.1-203.2.

410 17. The Virginia Racing Commission, (i) when acting by and through its duly appointed stewards  
411 or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual  
412 live horse racing at race meetings licensed by the Commission.

413 18. The Virginia Small Business Financing Authority.

414 19. The Virginia Economic Development Partnership Authority.

415 20. The Board of Agriculture and Consumer Services in adopting, amending or repealing  
416 regulations pursuant to subsection A (ii) of § 59.1-156.

417 21. The Insurance Continuing Education Board pursuant to § 38.2-1867.

418 22. The Board of Health in promulgating the list of diseases that shall be reported to the  
419 Department of Health pursuant to § 32.1-35 and in adopting, amending or repealing regulations pursuant  
420 to subsection C of § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining  
421 to restaurants or food service.

422 23. The Commissioner of the Marine Resources Commission in setting a date of closure for the  
423 Chesapeake Bay purse seine fishery for Atlantic menhaden for reduction purposes pursuant to § 28.2-  
424 1000.2.

425 24. The Board of Pharmacy when specifying special subject requirements for continuing education  
426 for pharmacists pursuant to § 54.1-3314.1.



25. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant to § 58.1-3219.7 or 58.1-3219.11.

26. The Virginia Department of Criminal Justice Services when developing, issuing, or revising any training standards established by the Criminal Justice Services Board under § 9.1-102, provided such actions are authorized by the Governor in the interest of public safety.

B. Agency action relating to the following subjects shall be exempted from the provisions of this chapter:

1. Money or damage claims against the Commonwealth or agencies thereof.
2. The award or denial of state contracts, as well as decisions regarding compliance therewith.
3. The location, design, specifications or construction of public buildings or other facilities.
4. Grants of state or federal funds or property.
5. The chartering of corporations.
6. Customary military, militia, naval or police functions.
7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the Commonwealth.
8. The conduct of elections or eligibility to vote.
9. Inmates of prisons or other such facilities or parolees therefrom.
10. The custody of persons in, or sought to be placed in, mental health facilities or penal or other state institutions as well as the treatment, supervision, or discharge of such persons.
11. Traffic signs, markers or control devices.
12. Instructions for application or renewal of a license, certificate, or registration required by law.
13. Content of, or rules for the conduct of, any examination required by law.
14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).
15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the Virginia Lottery Board, and provided that such regulations are published and posted.

16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.

17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1 ~~and~~, any operating procedures for review of adult deaths developed by the Adult Fatality Review Team pursuant to § 32.1-283.5, and any operating procedures for review of adult deaths developed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5.

20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

21. The Virginia Breeders Fund created pursuant to § 59.1-372.

22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.

23. The administration of medication or other substances foreign to the natural horse.

24. Any rules adopted by the Charitable Gaming Board for the approval and conduct of game variations for the conduct of raffles, bingo, network bingo, and instant bingo games, provided that such rules are (i) consistent with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 and (ii) published and posted.

C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia Register Act (§ 2.2-4100 et seq.), made by the Virginia Code Commission pursuant to § 30-150, shall be exempt from the provisions of this chapter.

**§ 32.1-283.8. Maternal Death Review Team; duties; membership; confidentiality; penalties; report; etc.**

480 A. As used in this section, "maternal death" means the death of a woman who was pregnant at the  
481 time of death or within one year prior to the time of death, regardless of the outcome of the pregnancy,  
482 including any death determined to be a natural death, unnatural death, or violent death or for which no  
483 cause of death was determined.

484 B. There is hereby created the Maternal Death Review Team (the Team), which shall develop and  
485 implement procedures to ensure that certain maternal deaths occurring in the Commonwealth are analyzed  
486 in a systematic way. The Team shall review every maternal death in the Commonwealth. The Team shall  
487 not initiate a maternal death review until the conclusion of any law-enforcement investigation or criminal  
488 prosecution. The Team shall (i) develop and revise as necessary operating procedures for maternal death  
489 reviews, including identification of cases to be reviewed and procedures for coordinating among the  
490 agencies and professionals involved; (ii) improve the identification of and data collection and record  
491 keeping related to causes of maternal deaths; (iii) recommend components of programs to increase  
492 awareness and prevention of and education about maternal deaths; and (iv) recommend training to improve  
493 the review of maternal deaths. Such operating procedures shall be exempt from the Administrative Process  
494 Act (§ 2.2-4000 et seq.) pursuant to subdivision B 17 of § 2.2-4002.

495 C. The team shall consist of the following persons or their designees: the Chief Medical Examiner,  
496 the Director of the Office of Family Health of the Department of Health, the State Registrar of Vital  
497 Records, and the Commissioner of Behavioral Health and Developmental Services. In addition, the  
498 Governor shall appoint one representative of each of the following entities: local law enforcement, local  
499 fire departments, local emergency medical services providers, local departments of social services,  
500 community services boards, attorneys for the Commonwealth, the Medical Society of Virginia, the  
501 Virginia Hospital and Healthcare Association, the Virginia College of Emergency Physicians, the Virginia  
502 Section of the American College of Obstetricians and Gynecologists, the Virginia Affiliate of the  
503 American College of Nurse-Midwives, the Virginia Chapter of the Association of Women's Health,  
504 Obstetric and Neonatal Nurses, the Virginia Neonatal Perinatal Collaborative, and the Virginia Academy  
505 of Nutrition and Dietetics. The Chief Medical Examiner and the Director of the Office of Family Health

of the Department of Health shall serve as co-chairs of the Team and may appoint additional members of the Team as may be needed to complete maternal death reviews pursuant to this section.

After the initial staggering of terms, members other than the Chief Medical Examiner, the Director of the Office of Family Health of the Department of Health, the State Registrar of Vital Records, the Commissioner of Behavioral Health and Developmental Services, and the Director of the Department of Criminal Justice Services shall be appointed for a term of three years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. The Chief Medical Examiner, the Director of the Office of Family Health of the Department of Health, the State Registrar of Vital Records, the Commissioner of Behavioral Health and Developmental Services, and the Director of the Department of Criminal Justice Services shall serve terms coincident with their terms of office.

D. Upon the request of the Chief Medical Examiner in his capacity as a co-chair of the Team, made after the conclusion of any law-enforcement investigation or prosecution, the Chief Medical Examiner or his designee may inspect and copy information and records regarding a maternal death, including (i) any report of the circumstances of the maternal death maintained by any state or local law-enforcement agency or medical examiner, and (ii) information or records about the woman maintained by any social services agency or court. Information, records, or reports maintained by any attorney for the Commonwealth shall be made available for inspection and copying by the Chief Medical Examiner or his designee pursuant to procedures that shall be developed by the Chief Medical Examiner and the Commonwealth's Attorneys' Services Council established by § 2.2-2617. Any presentence report prepared pursuant to § 19.2-299 for any person convicted of a crime that led to the death of the woman shall be made available for inspection and copying by the Chief Medical Examiner or his designee. In addition, the Chief Medical Examiner or his designee may inspect and copy from any health care provider in the Commonwealth, on behalf of the Team, (a) without obtaining consent, subject to any limitations on disclosure under applicable federal and state law, the health and mental health records of the woman and those prenatal medical records relating to any child born to the woman and (b) upon obtaining consent, from each adult regarding his records.

532        E. All information and records obtained or created by the Team or on behalf of the Team regarding  
533 a review shall be confidential and excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et  
534 seq.) pursuant to subdivision 7 of § 2.2-3705.5. All such information and records shall be used by the  
535 Team only in the exercise of its proper purpose and function and shall not be disclosed. In preparing  
536 information and records for review by the Team, the Department shall remove any individually  
537 identifiable information or information identifying a health care provider, as those terms are defined in 45  
538 C.F.R. § 160.103. Such information shall not be subject to subpoena, subpoena duces tecum, or discovery,  
539 be admissible in any civil or criminal proceeding, or be used as evidence in any disciplinary proceeding  
540 or regulatory or licensure action of the Department of Health Professions or any health regulatory board.  
541 If available from other sources, however, such information and records shall not be immune from  
542 subpoena, discovery, or introduction into evidence when obtained through such other sources solely  
543 because the information and records were presented to the Team during a maternal death review. The  
544 findings of the Team may be disclosed or published in statistical or other form, but shall not identify any  
545 individual. Upon conclusion of the maternal death review, all information and records concerning the  
546 woman and the woman's family shall be shredded or otherwise destroyed by the Office of the Chief  
547 Medical Examiner in order to ensure confidentiality.

548        The portions of meetings in which individual maternal deaths are discussed by the Team shall be  
549 closed pursuant to subdivision A 21 of § 2.2-3711. In addition to the requirements of § 2.2-3712, all Team  
550 members and other persons attending closed Team meetings, including any persons presenting  
551 information or records on specific maternal deaths to the Team during closed meetings, shall execute a  
552 sworn statement to (i) honor the confidentiality of the information, records, discussions, and opinions  
553 disclosed during meetings at which the Team reviews a specific maternal death and (ii) not use any such  
554 information, records, discussions, or opinions disclosed during meetings at which the Team reviews a  
555 specific maternal death for any purpose other than the exercise of the proper purpose and function of the  
556 team. Violations of this subsection are punishable as a Class 3 misdemeanor.

557 F. Upon notification of a maternal death, any state or local government agency maintaining records  
558 on the woman or the woman's family that are periodically purged shall retain such records for the longer  
559 of 12 months or until such time as the Team has completed its review of the case.

560 G. The Team shall compile triennial statistical data, which shall be made available to the Governor  
561 and the General Assembly. Any statistical compilations prepared by the Team shall be public record and  
562 shall not contain any personal identifying information.

563 H. Members of the Team, as well as their agents and employees, shall be immune from civil  
564 liability for any act or omission made in connection with participation in a review by the Team, unless  
565 such act or omission was the result of gross negligence or willful misconduct. Any organization,  
566 institution, or person furnishing information, data, testimony, reports, or records to the Team as part of  
567 such review shall be immune from civil liability for any act or omission in furnishing such information,  
568 unless such act or omission was the result of gross negligence or willful misconduct.

569 **2. That the initial appointments of members of the Maternal Death Review Team other than the**  
570 **Chief Medical Examiner, the Director of the Office of Family Health of the Department of Health,**  
571 **the State Registrar of Vital Records, the Commissioner of Behavioral Health and Developmental**  
572 **Service, and the Director of the Department of Criminal Justice Services, who shall serve terms**  
573 **coincident with their respective terms in office, shall be staggered as follows: five members shall be**  
574 **appointed for a term of one year, five members shall be appointed for a term of two years, and four**  
575 **members shall be appointed for a term of three years.**

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